THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.21450 OF 1999

Dated:02.08.2006

Between:

Allikhajyoth S/o A. Mallaiah

... PETITIONER

And:

Government of Andhra Pradesh,
Rep., by its Secretary, Education Department,
Secretariat, Hyderabad and another.

...**RESPONDENTS**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.21450 OF 1999

ORDER:

The petitioner was initially appointed as a lower division clerk (LDC) on 25.10.1978 in the Kakathiya University, and later on promoted as Senior Assistant on 23.10.1991, and thereafter as Superintendent on 09.10.2000. While working in the University, the petitioner acquired additional qualifications i.e, L.LM., and Ph.D. Having regard to the fact that he has the qualification of L.LM., and Ph.D., on the recommendations of the committee of Department of Law and the approval of the Vice Chancellor of the University, the petitioner was asked to teach some of the subjects in the university college of law (evening) at Warangal. According to the petitioner, he has been teaching law subjects from 02.11.1991 i.e, from the academic year 1991-92 onwards, and as he fully possess all the requisite qualifications, his case has to be considered for regularization as

lecturer. However, despite making representations to the respondent university, his case has not been considered. Therefore, he was constrained to file the present writ petition seeking a mandamus declaring the action of the respondents in not regularizing his services as Lecturer in the second respondent University, as irrational and arbitrary, and consequently direct the respondents to absorb him as lecturer in second respondent university by regularizing his services.

The second respondent filed a counter denying various allegations made in the writ petition and submitted that the petitioner does not possess the requisite qualification and hence his case could not be considered.

Heard Sri G. Ravi Mohan, learned counsel for the petitioner, as well as the learned standing counsel appearing for the second respondent-university.

The learned counsel for the petitioner, narrating the facts, stated that though the petitioner has been teaching the law subjects for the past for 16 years i.e., since 1991, he is not absorbed as lecturer in the second respondent university, though he possesses all the qualifications, which are required for the post of lecturer in law.

On the other hand, Sri Srikanth, the counsel representing Sri Deepak Bhattacharjee, learned standing counsel for the second respondent university, submits that as on the date of filing this writ petition i.e, in the year 1999, the petitioner does not have the requisite qualifications. The requisite qualifications, according to him, are that the petitioner should have presented his thesis for Ph.D., on or before 31.12.1993 or is qualified in the National Eligibility Test (NET), but the petitioner does not possess either of the two, and therefore, he cannot claim absorption for the post of lecturer, as a matter of right. It is his further contention that the petitioner is actually appointed in the post of LDC and the post of lecturer in law is not a promotion post from the

post of LDC and he cannot be promoted as a lecturer, unless and until the duly constituted selection committee duly selects him.

It is true that the petitioner was initially appointed as LDC on 25.10.1978 and thereafter promoted as Senior Assistant and again as Superintendent. It is also true that the petitioner has acquired all the requisite qualifications, such as L.LM., and Ph.D. Pursuant to which he was asked to take up the classes in law. From this it cannot be said that petitioner's services shall automatically be regularized. As contended by the learned standing counsel appearing for the respondents, the post of lecturer in law is not a promotion post from Superintendent, in which post the petitioner is working. May be he was asked to take up law classes on part time basis in the evening, but that does not give him any vested right to seek regularization as lecturer, unless and until he possesses the requisite qualification and is duly selected.

In the counter the qualification prescribed for the post of lecturer is specifically stated as follows:

> "The qualification prescribed by the U.G.C., for the post of lecturer are detailed as hereunder:
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> (i) Good academic record with atleast 55% of the marks or an equivalent grade of B in the 7 point scale with letter grades O, A, B, C, D, E & F at the Master's degree level, in the relevant subject from an Indian University or an equivalent degree from a foreign university;
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> (ii) Besides fulfilling the above qualifications, candidates should have cleared the eligibility test (NET) for Lecturers conducted by the UGC CSIR or similar test accredited by the UGC.
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> Note: NET shall remain the compulsory requirement for appointment as lecturer even for candidates having Ph.D degree. However, the candidates who have completed M.Phil degree or have submitted Ph.D thesis in the concerned subject upto 31.12.1993 are exempt from appearing in the NET examination."

No doubt, the petitioner is a Ph.d. According to him, he was awarded Ph.d in the year 1998. In the light of the qualification prescribed by UGC, awarding Ph.d in the year 1998 would not give any right to the petitioner for absorption as a lecturer in law. Had he submitted his thesis prior to 31.12.1993, it can be said that he is having requisite qualification prescribed by UGC. Similarly, the petitioner also could not establish the fact that he was qualified in the NET. Hence, this Court is of the view that the petitioner cannot seek regularization of his services as a matter of right. Hence, I see no merits in this writ petition.

Accordingly, the writ petition is dismissed. However, having regard to the fact that the respondent university has utilized the services of the petitioner as a lecturer in law, and he is fully qualified to be appointed as a lecturer in law, the University may consider the case of the petitioner for appointment to the said post. No costs.

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02.08.2006

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